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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,429	10/28/2003	David Mathieu	AUC-32815-1	9460
56080	7590	02/22/2010	EXAMINER	
WHYTE HIRSCHBOECK DUDEK S.C. INTELLECTUAL PROPERTY DEPARTMENT 33 East Main Street, Suite 300 Madison, WI 53703-4655			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	
			NOTIFICATION DATE	DELIVERY MODE
			02/22/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomailbox@whdlaw.com
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Office Action Summary	Application No.	Applicant(s)	
	10/695,429	MATHIEU ET AL.	
	Examiner	Art Unit	
	PHONG H. NGUYEN	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 October 2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18,20,23,25,26,28-32 and 40-47 is/are pending in the application.
 4a) Of the above claim(s) 1-18,23,26 and 28-32 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 20,25 and 40-47 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 13 February 2009 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/07/2009</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 40-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Matthai et al. (5,702,415), hereinafter Matthai.

Regarding claim 40, Matthai teaches a rotary trimmer comprising:

a blade carriage 13;

a cutting blade 9 having a plurality of apertures;

a hub (upper end of element 13) connected to the cutting blade 9;

a blade guard 80 securable to the hub.

See Fig. 2.

Regarding claims 41 and 42, a central aperture and a plurality of apertures are best seen in Fig. 1.

Regarding claim 43, a mounting structure is best seen in Fig. 2.

Regarding claim 44, see Fig. 2.

Regarding claim 45, a blade guard 80 is best seen in Fig. 1.

Regarding claim 46, the hub is best seen in Fig. 1.

3. Claims 20, 25 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Elson (3,298,409).

Regarding claim 47, Elson teaches a rotary trimmer comprising:

- a blade carriage 39;
- a cutting blade 30;
- a blade guard 36 secured to the cutting blade; and
- a clip 10 for connecting the blade guard to the cutting blade.

See Figs. 9 and 12.

Regarding claim 25, a handle 32 is best seen in Fig. 8.

Regarding claim 20, an arcuate shaped handle 32 is best seen in Fig. 8.

Response to Arguments

4. Applicant's arguments filed 10/20/2009 have been fully considered but they are not persuasive.

Regarding the Applicant's argument with respect to Matthai, it is to be noted that the claimed trimmer in Fig. 5 is similar to the trimmer in Fig. 1 except for the claimed blade is parallel to the handle while Matthai's blade is perpendicular to the handle. Element 13 is considered a blade carriage since it has an elongated body and the blade is mounted on one end (top end) of element 13. The top end of element 13 defines a hub for the blade. Since the chuck 12 is in the hub and the blade is mounted on the chuck, the blade is considered mounted to the chuck via a plurality of apertures.

Regarding the Applicant's argument with respect to Elson, element 39 is considered the blade carriage since the blade is mounted to the portion 45 of element 39. The blade guard mounted to the hub is best seen in Fig. 9. The blade guard is on element 40. Since, the clip 10 is between the blade guard and the blade, the clip 10 is considered to connect the guard and the cutting blade. Furthermore, the expression "for connecting the blade guard to the cutting blade" does not positively describe the spatial relationship among the clip, the blade guard and the cutting blade. The clip 10 is capable of performing the claim function. Therefore, the clip 10 reads on the claimed function.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHONG H. NGUYEN whose telephone number is (571)272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy V. Eley/
Primary Examiner, Art Unit 3724

/Phong H Nguyen/
Examiner, Art Unit 3724
February 8, 2010